

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
January 10, 1979

The fifth meeting of the Senate Judiciary Committee was called to order by Chairman Lensink in room 331 at 10:03 a.m.

ROLL CALL:

All members were present.

CONSIDERATION OF SENATE BILL 63:

This bill is an act to amend laws about misrepresentation of insurance policies and was sponsored by Senator Mike Anderson. Senator Anderson introduced Josephine Driscoll, the Chief Deputy Commissioner of Insurance in the Auditor's office.

Ms. Driscoll read a prepared statement. (see attached.) She further stated that the purpose of this bill is to help the consumer, particularly the Medicare patient, etc., in connection with the sale of insurance policies. She introduced Rita Theisen, chief of the legal division, who stated that the word, "omission" was a very important word added to this act. Senator Turnage questioned exactly what is an omission. Ms. Driscoll explained that this meant an omission of pertinent facts, such as an agent that omits to tell a potential customer that he is not from social security, but is representing a specific company selling a specific product. Senator Turnage questioned as to how far the word "omission" goes and how can an insurance carrier possibly put everything into their advertising materials. Ms. Driscoll responded that advertising is not required to be filed with the agency, but one omission that is often made is that the policy does not apply to pre-existing conditions.

The question was brought up as to how a matter is handled now when there are some problems. Ms. Driscoll said that a company is called in for a hearing and there is no action until after such hearing. The hearing is regulated by the Unfair Trade Practices Act. The question was brought up as to what penalties are imposed for violations. Ms. Driscoll replied that the company is either fined or it could lose its license, but in any event the consumer will probably get his money back. She explained that this act is trying to keep the agents on the straight-and-narrow and protect the consumer, particularly in the field of health insurance and the senior citizen.

Senator Lensink asked questions about one particular

mail order insurance company and Ms. Driscoll explained that this particular company was considered to be ethical and that they did not have any agents at all but did all their soliciting from the home office by phone and that they had many satisfied customers in the state of Montana.

There were no further proponents and no opponents. The committee agreed to wait for disposition of this bill.

CONSIDERATION OF SENATE BILL 51:

Senator Brown explained the contents of this bill, which deals with a problem the highway department has concerning sale of land to the original owner of interests in real property held by the Department of Highways. Senator Brown introduced James Beck, who is the Chief R/W Attorney, Legal Division of the Department of Highways.

Mr. Beck explained the problem they have with the excess land that is no longer needed for highways. He explained that they now send a notice of a right to meet the highest bid to the original owner or his successors. He said the problem comes in when the land has been subdivided and there are many adjacent owners.

Senator Lensink questioned as to what type of land parcels they are talking about and Jim Beck explained that this could be land whereby the highway made a loop and there was excess land going straight through, or a highway goes across a corner of a section, or the land is so damaged that it is valueless, or where there may be a gravel pit in the middle of a farmer's field. He stated that they try to sell this land to put it back on the tax rolls.

There was further discussion on the bill. There were no further proponents and no opponents and the committee agreed to hold further action on this bill.

Senator Brown made a motion that the amendment proposed by Jim Beck (see attached copy) be adopted. The motion carried unanimously.

CONSIDERATION OF SENATE BILL 56:

Senator Brown gave an explanation of this bill, which is an act to revise the laws concerning condemnations by the Department of Highways. He introduced James Beck, who is the Chief R/W Attorney, legal Division of the Department of Highways.

Jim Beck gave an explanation of exactly what this bill would do. He explained how if either side were dissatisfied with the decision of the commissioners after a hearing, they have 30 days in which to appeal to district court. He explained that the report of the commissioners cannot go into district court. This bill would allow the Department of Highways to waive the commission hearing. He explained how expensive the commission hearing can be in that the commissioners each get \$200.00 a day, and experts have to be brought in and they are paid \$150.00 a day. He stated that no one ever seems to be satisfied with the commission verdict so a great amount of them are appealed.

Senator Turnage questioned the wording, "waived by both parties" and made a motion to amend the bill on page 1, line 20 by inserting the word "written" following the word "by". The motion carried unanimously.

There were no further proponents and no opponents. Senator Van Valkenburg requested twenty-four hours to look into the matter further. The hearing on this bill was closed.

DISPOSITION OF SENATE BILL 33:

Senator Turnage stated that it was voted to delete Section 24 in its entirety. In that way, the old law stays the same. He then moved that the bill do pass as amended. The motion carried with all voting "yes" but Senator Towe abstaining.

CONSIDERATION OF SENATE BILL 27:

Senator Lensink stated that the Code Commissioners recommended that this bill be tabled as they felt that this bill was too controversial. Senator Turnage so moved and the motion carried by all voting yes with the exception of Senator Brown who voted no.

There being no further business, the meeting adjourned.

Everett R. Lensink

SENATOR EVERETT R. LENSINK, Chairman
Judiciary Committee

Date 11/1/02

ROLL CALL

JUDICIARY COMMITTEE

46th LEGISLATIVE SESSION - 1979

Each Day Attach to Minutes.

MONTANA STATE SENATE

Senate Judiciary Committee

Senate Bill No. 63

A BILL FOR AN ACT ENTITLED:

"AN ACT TO AMEND SECTION 33-18-202, MCA,
RELATING TO MISREPRESENTATION OF INSURANCE POLICIES."

The purpose of this amendment is to update Chapter 18 of the Montana Insurance Code, which defines unfair trade practices and provides the Department with a means of enforcing the law in the event violations do occur.

The amendments define more thoroughly and more carefully unfair trade practices by taking into account a wider range of consumer and industry problems.

The amendments deal with a major consumer concern, the misrepresentation and fraud in the advertising and selling of insurance policies, and conforms with the guidelines of the National Association of Insurance Commissioners.

The Commissioner of Insurance finds it necessary, from time to time, to issue regulations with respect to certain practices and enabling legislation for clarification is necessary.

MONTANA INSURANCE DEPARTMENT

BY Josephine M. Driscoll
Josephine M. Driscoll, CPIW
Chief Deputy Insurance Commissioner

SENATE COMMITTEE JUDICIARYDate 4/10/79 Senate Bill No. 35 Time

| NAME | YES | NO |
|--------------------------------------|-----|------------------|
| <u>Lensink, Everett R., Chr. (R)</u> | ✓ | |
| <u>Olson, S. A., V. Chr. (R)</u> | ✓ | |
| <u>Turnage, Jean A. (R)</u> | ✓ | |
| <u>O'Hara, Jesse A. (R)</u> | ✓ | |
| <u>Anderson, Mike (R)</u> | ✓ | |
| <u>Galt, Jack E. (R)</u> | ✓ | |
| <u>Towe, Thomas E. (D)</u> | | <u>Abstained</u> |
| <u>Brown, Steve (D)</u> | ✓ | |
| <u>Van Valkenburg, Fred (D)</u> | ✓ | |
| <u>Healy, John E. (Jack) (D)</u> | ✓ | |
| | | |
| | | |

Clyde C. Tracy
Secretary

Chairman

Motion: Do pass, as amended.

(include enough information on motion--put with yellow copy of committee report.)

all visitors - please fill out a Return to
Visitor Tag!

SENATE JUDICIARY COMMITTEE

BILLS 51, 56 & 63

VISITORS' REGISTER

DATE 1/10/79

Please note bill no.

(check one)

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY